IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6 - Feb. -2007

CORAM:

THE HONOURABLE MR.JUSTICE A.P.SHAH, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA

W.A.No.518 of 1998

Madras Government Servants
Co-op. Society Ltd.,
rep. by its Administrator,
121, Big Street, Triplicane,
Chennai-600 005. .. Appellant/2nd Respondent

vs.

1. K.Shanthi

2. The Presiding Officer,
Second Addl. Labour Court,
Madras. .. Respondents/Petitioner & 1st Respondent

Writ Appeal under clause 15 of Letters Patent against the order dated 17.2.1998 in W.P.No.15505 of 1993 on the file of this Court. WP No.15505/93: Petition presented under Article 226 of the constitution of India to issue a writ of Certiorarified Mandamus calling for the records connected with the proceedings of the Award dated 28.4.93 made in I.D.No.271/89 on the file of the 1st respondent and quash the same as illegal against law and direct reinstatement of the petitioner with full backwages with all attendant benefits.

For appellant : Mr.M.R.Raghavan
For respondent-1: Mr.K.V.Ananthakrishnan

JUDGMENT

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F.M.IBRAHIM KALIFULLA,J.

The appellant is a Co-operative Society formed by the Government Servants.

2. The challenge in the Writ Appeal is to the order of the learned single Judge, dated 17.2.1998, passed in W.P.No.15505 of 1993, wherein the learned single Judge, while setting aside the award of the Labour Court, dated 28.4.1993 passed in I.D.No.271 of

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1989, directed the appellant to reinstate the first respondent with full back wages with attendant benefits. While directing the payment of back wages, the learned single Judge also directed the appellant to pay interest at 12% p.a. and make the payment either by way of cash or by way of Demand Draft. The learned single Judge also directed that while calculating the back wages, whatever promotion to which the first respondent was eligible during the period of non-employment, should also be taken into account. As regards the direction for reinstatement, the learned single Judge has held that if no post is vacant, the first respondent should be accommodated by creating a supernumerary post by protecting salary and status. The learned single Judge also specified a time limit for complying with the directions.

3. The brief facts which are required to be stated are as follows:

According to the first respondent, her father was employed in the appellant-Society, that after his retirement, the first respondent was employed as Typist on a salary of Rs.475/- p.m. from 19.5.1986 till her services came to be terminated orally on 8.9.1988. Since the appellant failed to employ her, while at the same time, employed a person, by name Srinivasan, son of a Deputy Registrar of Co-operative Societies, the first respondent initially gave a notice on 6.10.1988 and subsequently raised an industrial dispute on 7.11.1988 under Section 2-A of the Industrial Disputes Act (hereinafter referred to as 'the I.D. Act'). The dispute ultimately went before the second respondent-Labour Court for adjudication as I.D.No.271 of 1989. The first respondent filed her claim statement narrating the above facts and contended that since she had put in more than 240 days of continuous service, the termination of her services without complying with Section 25-F of the Industrial Disputes Act, would render the termination ab-initio-void. She also contended that unceremonious termination of her services without any justifiable cause also rendered her termination illegal and liable to be set aside. She therefore claimed reinstatement with all back wages and continuity of service.

4. The first respondent's claim was resisted by the appellant contending that the first respondent was a daily rated employee, that initially she was paid Rs.15/- per day, which was subsequently increased to Rs.20/- from 8.12.1986 and to Rs.25/- from 25.5.1988. It was also contended that in the first calendar year, i.e. from 19.5.1986 to 18.5.1987, she worked for 233 days, that in the second calendar year, i.e. from 19.5.1987 to 18.5.1988, she worked for 225 days and that in the third calendar year, i.e. from 19.5.1988 to 7.9.1988, she worked for 72 days. It was therefore stated that since the first respondent had not put in 240 days of continuous service, she was not entitled for the benefits as provided under the I.D.

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Act. It was further stated that the job of typing was assigned to a Junior Assistant, by name V.N.Ramakrishnan, that one Sinivasan was employed from 4.10.1988 during the period when Ramakrishnan was on Medical Leave and subsequently, when Ramakrishnan joined duty on 21.10.1988, the engagement of Srinivasan was discontinued. It was stated that no typist was thereafter engaged exclusively for doing typing job. It was therefore contended that the first respondent was not entitled for any relief much less the relief of reinstatement with back wages.

5. Before the second respondent-Labour Court, the first respondent also filed a petition for direction to the appellant to produce the vouchers to prove her continuous service between 19.5.1986 and 7.5.1988 and that the appellant, except producing Exs.M-1 to M-9, failed to produce all the other vouchers, though it was admitted that such vouchers for the entire period, were available. The first respondent examined herself as W.W.1, while one witness was examined on the side of the appellant as M.W.1. Exs.W-1 to W-3 were marked on the side of the first respondent, while Exs.M-1 to M-9 were marked on the side of the appellant. Ex.W-1 is a settlement, dated 7.10.1978 reached under Section 18(1) of the I.D. Act, while Ex.W-2 is the notice sent by the first respondent to the appellant. Ex.W-3 is the acknowledgement card. Exs.M-1 to M-9 are the vouchers in proof of the wages paid to the first respondent.

6. The second respondent-Labour Court took the view that the first respondent was not a monthly paid employee, that there was no scope to hold that the first respondent was employed as Typist, that Exs.M-1 to M-9 disclose that the first respondent was paid wages based on the work assigned to her and therefore, the over-all evidence showed that the first respondent was not an employee of the appellant-Society. It was therefore concluded by the second respondent-Labour Court that the first respondent was not entitled for any relief.

7. Be that as it may, the first respondent also filed C.P.No.101 of 1993, claiming a sum of Rs.16,021.75 being the difference in wages from the appellant for the period during which she worked as Typist between May 1986 and September 1998. The said claim was made on the basis of the salary paid to other similarly placed workmen, which was far above than what was paid to her during the said period, that the salary paid to other Typists varied from Rs.855/- to Rs.914/- during the relevant period, while what was paid on daily wage basis was a maximum of Rs.475/-. In the said Claim Petition filed under Section 33-C(2) of the I.D. Act, the Labour Court passed an order on 13.4.1994, directing the appellant to pay a sum of Rs.19,061.75 on the footing that when once the employment of the first respondent as Typist was not disputed by the appellant, the salary ought to have been paid on par with the regular

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employees. It is not in dispute that the said order of the Labour Court was challenged by the appellant in W.P.No.15916 of 1995 and that the said Writ Petition was also ultimately dismissed on 19.6.2002. It is also stated that part of the amount computed in the said Claim Petition was also paid during the period when the said Writ Petition was pending.

8. In the present Writ Petition in W.P.No.15505 of 1993, the learned single Judge has held that Ex.W-1 settlement provided for Special Allowance payable to a Typist and therefore, the contention of the appellant that there was no post of typist, cannot be true. It was also held that the computation of wages by the Labour Court in C.P.No.101 of 1993 on par with the regular employees should also be held against the appellant. The learned single Judge ultimately held that the first respondent was entitled for reinstatement with all other consequential benefits.

9. Assailing the order of the learned single Judge, Mr.M.R.Raghavan, learned counsel appearing for the appellant-Society contended that the first respondent was not appointed through the Employment Exchange, that there was no cadre post of Typist in the appellant-Society, that the engagement of the first respondent was purely on ad-hoc basis, that she was not in the services of the appellant, and therefore, the question of finding out whether the first respondent was employed for 240 days, did not arise in order to state that there was non-compliance of Section 25-F of the I.D. Act. Learned counsel therefore contended that the first respondent was not entitled to any relief and consequently, the order of the learned single Judge is liable to be set aside.

10. As against the above submissions, Mr.K.V.Ananthakrishnan, learned counsel appearing for the first respondent would contend that when admittedly between 19.5.1986 and 8.9.1988, the first respondent was employed for 530 days as admitted by the appellant in their counter statement and the further fact that the Labour Court, in its order dated 13.4.1994 passed in C.P.No.101 of 1993, directed the appellant to pay wages on par with regular employees, which order having been confirmed by this Court in W.P.No.15916 of 1995 in the order dated 19.6.2002, it is too late in the day for the appellant to contend that the first respondent was not employed in the post of Typist and therefore, the relief granted by the learned single Judge does not call for any interference.

11. From the respective submissions of learned counsel as well as on a detailed consideration of the various materials placed before the Labour Court including the respective pleadings of the parties, the following facts are not in controversy:

(i) The first respondent was in the services of the appellant

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between 19.5.1986 and 8.9.1988.

(ii) Between 19.5.1986 and 18.5.1987, she worked for 233 days.

(iii) Between 19.5.1987 and 18.5.1988, she worked for 225 days.

(iv) Between 19.5.1988 and 7.9.1988, she worked for 72 days.

(v) The services of the first respondent came to be terminated by an oral order of termination on 8.9.1988.

(vi) From 4.10.1988, one Srinivasan was engaged till 21.10.1988.

(vii) According to the appellant, between 9.9.1988 and 4.10.1988 and from 21.10.1988, another Junior Assistant, by name, V.N.Ramakrishnan was doing Typist work.

(viii) As per the settlement dated 7.10.1978, among other posts, for the post of Typist, the payment of Special Allowance was agreed to be paid at the rate of Rs.20/- p.m.

(ix) Before the second respondent-Labour Court, the appellant-Society did not produce any other record other than Exs.M-1 to M-9, which were the payment vouchers in respect of the first respondent to show as to what was the actual dates of engagement of the first respondent as Typist.

12. In the above stated background, before considering the question as to the correctness of the award of the second respondent-Labour Court or the order of the learned single Judge, we wish to state the legal position as regards the nature and status of persons like that of the first respondent and the relief that can be granted in such cases as stated by the Supreme Court in the recent past. The said legal position has been succinctly stated in the decisions reported in 2005 (2) L.L.J. 161 (K.S.R.T.C. vs. S.G. Kotturappa), 2005 (8) S.C.C. 750 (Surendranagar District Panchayat vs. Dahyabhai Amarsinh), 2006 (1) L.L.J. 496 (U.P.State Brassware Corpn. Ltd. vs. Udai Narain Pandey), 2006 (2) L.L.J.104 (State of M.P. vs. Arjunlal Rajak), 2006 (2) L.L.J. 748 (Nagar Mahapalika (now Municipal Corporation) vs. State of U.P), 2006 (2) L.L.J. 768 (Municipal Council, Sujanpur vs. Surinder Kumar) and 2006 (2) S.C.C. 716 (M.P.State Agro Industries Development Corpn. Ltd. vs. S.C.Pandey).

13. In 2005(2)L.L.J.161 (cited supra), the Supreme Court, while considering the case of Badli workmen employed by the Karnataka State Road Transport Corporation, in the light of the Regulations governing the service conditions of the employees, found that before

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ever an employee is to be considered for appointment in the regular services, the entry level is as a Badli whose name was to be subsequently entered in a list and thereafter, his status would be as a temporary employee and only thereafter, depending upon the availability of vacancies, persons will be considered for regular appointment. The Supreme Court held that the mode of appointment therefore postulated appointment in three tiers. In dealing with the said nature of engagement, the Supreme Court has held as under in paragraphs 16 and 17:

> "16. The contentions of the parties as regard the status of the respondent are, therefore, required to be considered in the aforementioned backdrop.
>
> 17. It is not a case where the respondent has completed 240 days of service during the period of 12 months preceding such termination as contemplated under Section 25-F read with Section 25-B of the Industrial Disputes Act, 1947. The *Badli* workers, thus, did not acquire any legal right to continue in service. They were not even entitled to the protection under the Industrial Disputes Act nor the mandatory requirements of Section 25-F of the Industrial Disputes Act were required to be complied with before terminating his services, unless they complete 240 days service within a period of twelve months preceding the date of termination." (emphasis added)

14. In the decision reported in 2005(8)S.C.C.750 (cited supra), the Supreme Court, while interpreting Section 25-F read along with Section 25-B of the I.D. Act, has held that the above provisions postulate that if the workman has put in at least 240 days with his employer immediately prior to the date of retrenchment, he should be deemed to have served with the employer for a period of one year to get the benefit of Section 25-F. The Supreme Court has explained the legal position as under in paragraphs 10 and 11:

> "10. In Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court (1980 (4)SCC 443 : 1981 SCC(L&S)16 : AIR 1981 SC 422) speaking for a three-Judge Bench, O.Chinnappa Reddy,J. while considering the original provisions of Section 25-B and the amendment brought about by Act 36 of 1964 in Section 25-B of the Act, has said that Section 25-F requires that a workman should be in continuous service for not less than one year under an employer

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before that provision applies. While so, present Section 25-B(2) steps in and says that even if a workman has not been in continuous service under an employer for a period of one year, he shall be deemed to have been in such continuous service for a period of one year, if he has actually worked under the employer for 240 days in the preceding period of twelve months.

11. In the matter of *Mohan Lal* v. *Bharat Electronics Ltd.* (1981(3)SCC 225: 1981 SCC(L&S) 478) this Court has said that sub-section (2) of Section 25-B comprehends a situation that where a workman is not in continuous service within the meaning of sub-section (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer for a period of 12 months just preceding the date with reference to which calculation is to be made, has actually worked under that employer for not less than 240 days. It is not necessary for the purpose of sub-section (2)(a) that the workman should be in service for a period of one year and that his service is continuous service within the meaning of sub-section (1). If his case is governed by sub-section (1) then it need not be covered by sub-section (2). Sub-section (2) envisages a situation not governed by sub-section (1) and sub-section (2) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for one year but has rendered service for a period of 240 days during the period of 12 calendar months continuing backwards and just preceding the relevant date, being the date of retrenchment." (emphasis added)

15. In the decision reported in 2006(1)L.L.J.496 (cited supra), the Supreme Court while dealing with a case of an employee who was employed on daily wages for a period between 23.7.1984 in a project till 8.1.1987, has noted that the Labour Court in its award, gave a finding that the concerned workman worked for more than 240 days in each year of 1985-1986, which directed its reinstatement with full back wages, in view of non-compliance of a provision akin to Section 25-F of the I.D. Act. In dealing with the said case, after setting out the legal position as regards Section 25-B of the I.D. Act, the Supreme Court went into the question how far the relief has to be granted where violation of Section 25-F has been found. The Supreme

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Court has explained the legal position as under in paragraphs 20, 44, 45 and 48:

> "20. Section 25-B(2)(a) of the Industrial Disputes Act, raises a legal fiction that if a workman has actually worked under the employer continuously for a period of more than 240 days during a period of twelve calendar months preceding the date with reference to which calculation is to be made, although he is not in continuous service, he shall be deemed to be in continuous service under an employer for a period of one year."
>
> "44. Industrial Courts while adjudicating on disputes between the management and the workmen, therefore, must take such decisions which would be in consonance with the purpose the law seeks to achieve. When justice is the buzzword in the matter of adjudication under the Industrial Disputes Act, it would be wholly improper on the part of the superior Courts to make them apply the cold letter of the statutes to act mechanically. Rendition of justice would bring within its purview giving a person what is due to him and not what can be given to him in law."
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> "45. A person is not entitled to get something only because it would be lawful to do so. If that principle is applied, the functions of an Industrial Court shall lose much of its significance."
>
> "48. The Court, therefore, emphasized that while granting relief application of mind on the part of the Industrial Court is imperative. Payment of full back wages, therefore, cannot be the natural consequence."
>
> (emphasis added)

16. In the decision reported in 2006(2)L.L.J.104 (cited supra), whereagain, the Supreme Court, after finding that that there was violation of Section 25-F of the I.D. Act in the matter of termination of a daily wage employee, who had worked for more than 240 days, has modified the relief of reinstatement with full back wages, by granting monetary compensation of Rs.10,000/-.

17. In the decision reported in 2006(2)L.L.J.748 (cited supra), the Supreme Court, while dealing with yet another case of persons who were appointed on ad-hoc basis, who had worked for more than 240 days in a period of one year, in violation of provision under the

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Uttar Pradesh Industrial Disputes Act, which is analogous to Section 25-F of the I.D. Act, has stated the legal position as under in paragraph 23:

> "23. Non-compliance of the provisions of Section 6-N of the U.P. Industrial Disputes Act, although, may lead to the grant of a relief of reinstatement with full back wages and continuity of service in favour of the retrenched workmen, the same would not mean that such a relief is to be granted automatically or as a matter of course."

Ultimately, the Supreme Court directed that instead and in place of directing reinstatement of service, interest of justice would be subserved by payment of compensation of Rs.30,000/- per person.

18. In the decision reported in 2006(2)L.L.J.768 (cited supra), the Supreme Court held that the burden of proof to establish that the workman had put in 240 days of work within a period of 12 months preceding the termination, was on the workman himself. Having regard to the fact that in that case, the appointment of the concerned workman was in violation of the Rules, the Supreme Court ultimately directed payment of monetary compensation of Rs.50,000/-.

19. In the decision reported in 2006(2)S.C.C.716 (cited supra), the Supreme Court has set out the question raised in the appeal and stated that the same was covered by an earlier decision of the Supreme Court reported in 2006(2) S.C.C.702 (M.P.Housing Board vs. Manoj Shrivastava) and held in paragraph 17 as under:

> "17. The question raised in this appeal is now covered by a decision of this Court in *M.P. Housing Board* v. *Manoj Shrivastata* (2006(2) S.C.C.702) wherein this Court clearly opined that: (*1*) when the conditions of service are governed by two statutes; one relating to selection and appointment and the other relating to the terms and conditions of service, an endeavour should be made to give effect to both of the statutes; (*2*) a daily-wager does not hold a post as he is not appointed in terms of the provisions of the Act and the Rules framed thereunder and in that view of the matter he does not derive any legal right; (*3*) only because an employee had been working for more than 240 days that by itself would not confer any legal right upon him to be regularised in service; (*4*) if an

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appointment has been made contrary to the provisions of the statute the same would be void and the effect thereof would be that no legal right was derived by the employee by reason thereof."

(emphasis added)

Ultimately, the Supreme Court, finding that the termination of such a daily wage employee was in violation of Section 25-F of the I.D. Act, has moulded the relief by directing the Management to pay a sum of Rs.10,000/- by way of compensation and has held as under in paragraphs 24 to 26:

"24. However, it has not been contended that the services of the respondent were not governed by the provisions of the Industrial Disputes Act. He worked from 16-9-1985 to 19-5-1987. He must have, thus, completed 240 days of service. The termination of his services without complying with the provisions of Section 25-F of the Industrial Disputes Act was, thus, illegal. He, however, had unjustly been directed to continue in service by reason of an interim order. He has been continuing in service pursuant thereto.

25. The appellant, in our opinion, cannot be made to suffer owing to a mistake on the part of the court. The respondent also cannot take advantage of a wrong order.

26. In the peculiar facts and circumstances of the case, we are, therefore, of the opinion that interest of justice would be subserved if, in place of directing reinstatement of the services of the respondent, the appellant is directed to pay a sum of Rs.10,000 by way of compensation to him. It is directed accordingly. The orders under challenge are set aside. The appeal is allowed with the aforementioned directions and observations."

(underlining is ours)

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20. On a conspectus reading of the law stated by the Supreme Court as above and applying the same to the facts of this case, we find that the employment of the first respondent by the appellant-Society was admittedly on daily wage basis. Though the appellant had the relevant records to state as to for how many days the first respondent had worked immediately preceding 12 months from the date of her non-employment, namely 8.9.1988, for reasons best known to it, the appellant-Society did not produce all the records. It will have to be stated that in spite of the application filed by the

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first respondent, the appellant-Society did not produce full records before the Labour Court. The appellant-Society however admitted that the first respondent was employed for 72 days between 19.5.1988 and 7.9.1988. The period for which the number of days of employment is to be ascertained is between 8.9.1987 and 7.9.1988. The fact remains that between 19.5.1986 and 7.9.1988, the first respondent had been employed for 530 days. We have noted that in the decision reported in 2006(2)S.C.C.716 (cited supra), the Supreme Court, in respect of engagement of a daily wage employee between 16.9.1985 and 19.5.1987, proceeded on the footing that he might have completed 240 days of service, and held that non-compliance of Section 25-F of the Act was illegal, though ultimately, the Supreme Court granted the relief of payment of compensation.

21. Keeping the above dictum of the Supreme Court in mind, when we consider the award of the Labour Court, we find that the Labour Court proceeded on the basis that the first respondent cannot be held to be an employee of the appellant-Society and therefore, no relief can be granted. Such an approach of the second respondent-Labour Court cannot be approved. In the light of the definition of 'workman' under Section 2(s) of the I.D. Act and having regard to the nature of employment of the first respondent, she would definitely fall within the said definition and as such, she would be governed by the provisions of the I.D. Act.

22. Admittedly, the first respondent was in employment between 19.5.1986 and 7.9.1988, though on daily wage basis. Though the appellant-Society would contend that it had no post of Typist, a reference to Ex.W-1 settlement, dated 7.10.1978 discloses that the appellant did have a category of Typist in its establishment, or otherwise, there was no need for providing payment of Special Allowance to Typist also, apart from other categories of employees, namely Cashier, Internal Auditor, Day Book Section Assistant and Head Peon. It may be that the appellant-Society was not inclined to have a regular Typist of its own. On that score, it cannot be held that irrespective of Ex.W-1 settlement, the appellant had no post of Typist. A perusal of the counter statement of the appellant-Society filed before the second respondent-Labour Court also shows that the first respondent was in fact employed as Typist between 19.5.1986 and 7.9.1988. Therefore, it is hard to believe that there was no post of Typist in the appellant's establishment. When once we steer clear of the said position and when the employment of the first respondent between 19.5.1986 and 7.9.1988 for the number of days as worked by her is admitted, it will have to be necessarily held that the termination of her employment on and from 8.9.1988 without complying with the provisions of Section 25-F of the I.D. Act, was thoroughly illegal.

23. When once we reach the said conclusion, the next question

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would be as to whether that by itself would entitle the first respondent to claim reinstatement with full back wages and all other attendant benefits, as has been granted by the learned single Judge. On this aspect, we are unable to subscribe to the conclusion of the learned single Judge in having granted the relief in such an extensive manner.

24. We find that the appellant, after terminating the services of the first respondent on and from 8.9.1988, is stated to have utilised the services of a Junior Assistant to do typing work by paying some Special Allowance. As regards the contention of the first respondent that, in her place, one Srinivasan, son of a Deputy Registrar of Co-operative Societies, was employed as Typist from 4.10.1988, the appellant-Society has fairly stated before the second respondent-Labour Court in its counter statement that the employment of the said Srinivasan was during the period when one Ramakrishnan, Junior Assistant went on Medical Leave between 4.10.1988 and 21.10.1988 and not thereafter. Therefore, if the appellant cannot afford to have a Typist as a full-time employee as contended by it and it can manage its affairs by availing the services of a Junior Assistant by paying Special Allowance, we are of the view that at the instance of the first respondent who was only employed as a daily wage employee, when she was in the employment of the appellant-Society, she cannot be heard to say that the appellant-Society should be compelled to have a Typist on a regular basis. The appellant being a Co-operative Society formed by the Government Servants, is entitled to arrange its affairs in such a way, including employment of its servants in a most economical way befitting its financial position. Moreover, the first respondent has not alleged any other motive or mala-fide on the part of the appellant as regards the oral termination of her employment.

25. Therefore, taking an over-all view of the facts involved and applying the decisions of the Supreme Court on the issue, we hold that, even though there was violation of Section 25-F of the I.D. Act while terminating the services of the first respondent on and from 8.9.1988, that by itself will not entitle the first respondent to claim reinstatement with all back wages and continuity of service and other attendant benefits. Instead, we hold that the first respondent can be granted the relief by way of payment of compensation.

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26. When we examine the question as to what extent the monetary relief can be granted, we find that already, for the period of services rendered by the first respondent, the Labour Court has computed the wages payable to the first respondent by calculating the same at a sum of Rs.914/- p.m. The Labour Court has computed the relief thus payable for the above said period at a sum of Rs.19,061.75. The first respondent has stated that part of the

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amount ordered has been paid by the appellant-Society pursuant to the interim order of this Court passed in W.M.P.No.18920 of 1997 in W.P.No.15916 of 1995, dated 25.3.1998. Even if the first respondent had been retrenched from service, by applying Section 25-F of the I.D. Act, the first respondent would have been entitled for a maximum of 15 days' average pay for every completed year of continuous service, plus, one month's notice pay. Treating the first respondent's wages as Rs.914/- p.m., she would have thus been entitled for two months' wages on the date of her termination, namely 8.9.1988, which will work out to a sum of Rs.1,828/-. We therefore feel that since the amount computed by the Labour Court in C.P.No.101 of 1993 has also become final by the order of this Court dated 19.6.2002 in W.P.No.15916 of 1995 and adding a sum of Rs.1,828/- to the sum so computed by the Labour Court, it will work out to a sum of Rs.20,889.75. We are therefore of the considered view that a consolidated sum of Rs.25,000/- covering the relief granted by the Labour Court in C.P.No.101 of 1993 as well as the retrenchment compensation payable to the workman, will meet the ends of justice.

27. Accordingly, we set aside the award of the Labour Court, dated 28.4.1993 passed in I.D.No.271 of 1989 as well as the order of the learned single Judge, dated 17.2.1998 passed in W.P.No.15505 of 1993 and hold that though the non-employment of the first respondent was not justified, since the same was in violation of Section 25-F of the I.D. Act, instead of directing the appellant-Society to reinstate the first respondent into service and pay all the consequential benefits as directed by the learned single Judge, we direct the appellant-Society to pay a sum of Rs.25,000/- (Rupees twenty five thousand only) after giving credit to whatever payment already made pursuant to the interim order of this Court, dated 25.3.1998 passed in W.M.P.No.18920 of 1997 in W.P.No.15916 of 1995.

28. The appeal stands disposed of with the directions as indicated above. No costs.

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Asst.Registrar

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Sub Asst.Registrar

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